

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

ROBERT PONZIO, et al.,	:	Hon. Joseph H. Rodriguez
	:	
Plaintiffs,	:	Civil Action No. 18-12544
	:	
v.	:	<b>ORDER</b>
MERCEDES-BENZ USA, LLC,	:	
and DAIMLER AG,	:	
	:	
Defendants.	:	

This matter having come before the Court by way of Motion to Dismiss by Defendant Mercedes-Benz USA, LLC (“MBUSA”) [Dkt. No. 22], and Motion to Dismiss by Defendant Daimler AG (“Daimler”) [Dkt. No. 37]; and the Court having considered the written submissions of the parties as well as the arguments advanced at the hearing on September 17, 2019; for the reasons expressed on the record that day, as well as those set forth in the Court’s Opinion of Today’s date; and for good cause shown;

IT IS on this 11<sup>th</sup> day of March 2020 hereby

ORDERED that Defendants’ Motions to Dismiss [Dkt. Nos. 22, 37] are GRANTED IN PART and DENIED IN PART as follows:

ORDERED that Defendants’ Motions to Dismiss [Dkt. Nos. 22, 37] for lack of personal jurisdiction are DENIED; and

ORDERED that Defendants’ alternative Motions to Transfer this action to the Northern District of Georgia [Dkt. Nos. 22, 37] are DENIED; and

ORDERED that Defendants’ Motions to Dismiss [Dkt. Nos. 22, 37] Nationwide COUNT I for Fraudulent Concealment are GRANTED as to Plaintiff Mull, Plaintiff Madsen, Plaintiff Acuna, Plaintiff Miller, Plaintiff Kloczko, Plaintiff Salgado, and

Plaintiff Montgomery; their claims are dismissed; but DENIED as to Plaintiff Nelthrope and Plaintiff Ponzio; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] Nationwide COUNT II for Unjust Enrichment are GRANTED; Nationwide COUNT II is dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] Nationwide COUNT III for violations of the Magnuson-Moss Warranty Act are GRANTED; Nationwide COUNT III is dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] all state claims, brought under the laws of the states which no named Plaintiffs represent, are GRANTED; such state claims are dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] California COUNT I are GRANTED IN PART as to Plaintiff Salgado and Plaintiff Montgomery's claim under the California Unfair Competition Law's Unlawful prong but DENIED IN PART as to claims under the Unfair and Fraudulent Acts or Practices prongs; California COUNT I is dismissed to the extent it is brought pursuant to the unlawful prong; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] California COUNT II are GRANTED IN PART as to Plaintiff Salgado and DENIED IN PART as to Plaintiff Montgomery; Plaintiff Salgado's claim under California COUNT II is dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] Kansas COUNT I are DENIED; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] Plaintiff Kloczko's claim under Florida COUNT I are GRANTED; Plaintiff Kloczko's Unfair and Deceptive Trade Practice claim is dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] New Jersey COUNT I are GRANTED; Plaintiff Ponzio's claim is dismissed; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] New York COUNT I are DENIED; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] New York COUNT II are DENIED; and

ORDERED that Defendants' Motions to Dismiss [Dkt. Nos. 22, 37] North Carolina COUNT I are DENIED; and

ORDERED that Defendants Motions to Dismiss [Dkt. Nos. 22, 37] all Breach of Express Warranty Claims are GRANTED; California Count IV, Florida Count III, Kansas Count III, North Carolina Count III, New Jersey Count III, and New York Count IV are dismissed; and

ORDERED that Defendants Motions to Dismiss [Dkt. Nos. 22, 37] California COUNT V and California COUNT VI for claims under California's Song-Beverly Consumer Warranty Act are GRANTED; California COUNT V and California COUNT VI are dismissed; and

ORDERED that Defendants Motions to Dismiss [Dkt. Nos. 22, 37] all Breach of Implied Warranty Claims are GRANTED; California Count III, Kansas Count II, Florida Count II, New Jersey Count II, New York Count III, and North Carolina Count II are dismissed.

/s/ Joseph H. Rodriguez  
HON. JOSEPH H. RODRIGUEZ  
United States District Judge